

REMARKS

Claims 1, 2, 7, 10, 11, and 16 are pending in this application.

Applicants have amended claim 1. The changes to this claim made herein do not introduce any new matter.

Rejection Under 35 U.S.C. § 112

Applicants respectfully request reconsideration of the rejection of claims 1, 2, and 7 under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants have amended independent claim 1 to specify that the claimed commodity sales system includes at least one server computer, which includes the various modules recited in the claim. Support for this change may be found in the as-filed specification at, for example, page 48, lines 3-11.

As recognized in *In re Comiskey*, with reference to The Computer Glossary (8th ed. 1998) by Alan Freedman, a module is defined as “[a] self-contained hardware or software component that interacts with a larger system.” *In re Comiskey*, 84 USPQ2d 1670, 1680 (Fed. Cir. 2007). As such, Applicants submit that one having ordinary skill in the art could readily determine the metes and bounds of the subject matter defined in present claim 1. Accordingly, Applicants submit that claims 1, 2, and 7, as amended herein, satisfy the definiteness requirement of 35 U.S.C. § 112, second paragraph, and request that the rejection of these claims thereunder be withdrawn.

Double Patenting Rejection

In response to the provisional obviousness-type double patenting rejection of claims 1, 2, 7, 10, 11, and 16 as being unpatentable over claims 1, 5, 11, 12, 20-23, and 28-30 of copending Application No. 10/674,988, Applicants are concurrently submitting a terminal disclaimer. Accordingly, Applicants request that the provisional obviousness-type double patenting rejection of claims 1, 2, 7, 10, 11, and 16 be withdrawn.

Rejection under 35 U.S.C. § 102

Applicants respectfully request reconsideration of the rejection of claims 1, 2, 7, 10, 11, and 16 under 35 U.S.C. § 102(b) as being unpatentable over *Asami et al.* (“*Asami*”) (US 2001/0005833 A1). As will be explained in more detail below, the *Asami* reference does not disclose each and every feature of the subject matter defined in independent claims 1 and 10.

Considering first independent claim 1, this claim is drawn to a commodity sales system for use when a user purchases a commodity and trades in a used personal computer. The claimed sales system includes at least one server computer, where the at least one server computer includes a commodity price specification module, a storage module, a maximum/minimum price determination module, a tentative quote setting module, a deduction setting module, and an amount payable notification module.

As specified in the claimed subject matter, the tentative quote setting module sets a minimum price determined by the maximum/minimum price determination module to a tentative quote of the used personal computer. The deduction setting module (“DSM”) utilizes a first reference value and a second reference value which is less than the first reference value. When the tentative quote exceeds the first reference value, the DSM determines that an assessment of the used personal computer is required upon receipt, and sets the minimum price of the used personal computer to a deduction of the selected commodity. When the tentative quote is not greater than the first reference value but exceeds the second reference value, the DSM determines that the assessment is not required and sets the tentative quote of the used computer to the deduction of the commodity. And when the tentative quote is not greater than the second reference value, the DSM determines that the assessment is not required and sets a preset fixed price, which does not depend upon the tentative quote, to the deduction of the commodity.

Further, in the case where the tentative quote exceeds the first reference value, the amount payable notification module notifies the user computer of the maximum price and the minimum price of the used personal computer, and notifies that, if a final trade-in price of the used personal computer determined after the assessment exceeds the minimum price, an amount of difference between the final trade-in price and the minimum price is to be refunded to the user.

The *Asami* reference discloses a product distribution system and method for providing information to customers in the context of such a system. More specifically, *Asami* teaches an “owned item self-assessment capability...such that when a member enters various parameters applicable to an item which he owns on a resale assessment form provided by storeless sales system 5, product distribution system 1 automatically calculates and displays an assessment of the resale price for that owned item.” *Asami* at Paragraph [0137]. The parameters may include the “condition of any accessories, operational problems, scratches or defects, and the like for the product being assessed,” the entry of which results in calculation of deductions for each assessment parameter. *Asami* at Paragraph [0141]. The user can click a button to show results which “will calculate an assessed value by subtracting the total of those deductions from the resale price upper limit, and will display the results of that calculation on the assessment form.” *Asami* at Paragraph [0141].

While *Asami* teaches self-assessment of the resale price for an owned item before actual submission of the item, the subject matter defined in present claim 1 is directed toward a sales system which determines whether or not further (non-self) assessment is required after receipt of a used computer for trade-in based on comparison of a tentative quote with a first reference value. When the tentative quote exceeds the first reference value, an assessment is required upon receipt of the used computer. *Asami* does not teach such a feature for

determining whether or not to conduct further non-self assessment after submission of an item.

Moreover, the Examiner states with reference to *Asami* that “if deduction for scratches and defects is greater than resale price of trade-in product, the assessment of trade-in product is not required.” Applicants respectfully traverse the Examiner’s characterization of the *Asami* reference in this regard. First of all, Applicants are unable to find in the disclosure of *Asami* any teaching to this effect. Second, even assuming that the statement is supported by *Asami*’s disclosure, determining that the “deduction for scratches and defects is greater than resale price of trade-in product” would require assessment in the first place. It is self-contradictory to state that assessment is not required for a determined condition whose determination in itself requires assessment.

Further, *Asami* does not teach the claimed features relating to the use of first and second reference values, namely, setting the tentative quote as the deduction of the commodity when the tentative quote exceeds the second reference value but not the first reference value, and setting a preset fixed price, which does not depend upon the tentative quote, to the deduction of the commodity when the tentative quote is not greater than the second reference value. Still further, *Asami* fails to teach the claimed amount notification module, which notifies the user computer when the tentative quote exceeds the first reference value, that if a final trade-in price of the used personal computer determined after the assessment exceeds the minimum price, an amount of difference between the final trade-in price and the minimum price is to be refunded to the user.

Thus, for at least the foregoing reasons, the *Asami* reference does not disclose each and every feature of the subject matter defined in present claim 1.

Independent claim 10 defines a commodity sales method that corresponds to the functionality of the commodity sales system defined in claim 1. As such, the arguments set forth above regarding present claim 1 also apply to present claim 10.

Accordingly, independent claims 1 and 10, as amended herein, are patentable under 35 U.S.C. § 102(b) over *Asami*. Claims 2 and 7, each of which depends from claim 1, and claims 11 and 16, each of which depends from claim 10, are likewise patentable under 35 U.S.C. § 102(b) over *Asami* for at least the same reasons set forth above regarding the applicable independent claim.

Conclusion

In view of the foregoing, Applicants respectfully request reconsideration and reexamination of claims 1, 2, 7, 10, 11, and 16, as amended herein, and submit that these claims are in condition for allowance. Accordingly, a notice of allowance is respectfully requested. In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 749-6902. If any additional fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees to Deposit Account No. 50-0805 (Order No. ITECP003).

Respectfully submitted,
MARTINE PENILLA & GENCARELLA, L.L.P.

/Peter B. Martine/

Peter B. Martine
Reg. No. 32,043

710 Lakeway Drive, Suite 200
Sunnyvale, California 94085
Customer Number 25920